

Senate Bill No. 300

Passed the Senate September 8, 2009

Secretary of the Senate

Passed the Assembly September 1, 2009

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2009, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 1130, 1137, 1156, 1156.6, 1157.1, 1171.5, 1176, 1190, and 1196 of the Harbors and Navigation Code, relating to harbors and ports, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 300, Yee. Harbors and ports: Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun: pilotage rates: continuing education.

(1) Existing law provides for the regulation and licensing of pilots for the Bays of San Francisco, San Pablo, Suisun, and Monterey by the Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun. Existing law requires the board to adopt standards and a training program for pilots, inland pilots, and pilot trainees.

This bill would instead require the board to adopt training standards and a training program for pilot trainees, and continuing education standards and a continuing education program for pilots and inland pilots. The bill would require that fees from the surcharge for each movement of a vessel using pilot services used for a training program for pilots and inland pilots be used instead to fund a pilot and inland pilot continuing education program.

(2) Existing law provides that all records of the board relating to the personal information of a pilot are confidential and shall not be open to public inspection.

This bill would include within that provision personal information of an inland pilot, a pilot trainee, and an applicant to the pilot training program.

The bill would also revise the information that is required to be in a pilot's or inland pilot's record of account to exclude the name of the vessel's master and where the vessel is registered.

(3) Existing law specifies the rates of pilotage for vessels entering or leaving Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun through the Golden Gate Bridge. Existing law establishes the mill rate chargeable to those vessels and authorizes that rate to be changed under certain circumstances,

including when the number of licensed pilots is reduced to 60 pilots or falls below 60 pilots.

This bill would eliminate the general requirement to change the rate under certain circumstances and instead require that the mill rate in effect on January 1, 2006, be changed, as provided, if the number of pilots licensed by the board is fewer than 60. The bill would also provide that these new requirements would become inoperative if on or after January 1, 2010, the number of pilots licensed by the board is equal to or greater than 60.

(4) Existing law also imposes an incremental rate of additional mills per high gross registered ton as is necessary and authorized by the Board of Pilot Commissioners to recover the pilots' costs of obtaining new pilot boats and of funding design and engineering modifications for the purposes of extending the service life of existing pilot boats, excluding costs for repair or maintenance.

This bill would also require, until January 1, 2011, a movement fee as is necessary and authorized by the board to be paid as a navigation technology surcharge in order to recover the pilots' costs for the purchase, lease, or maintenance of navigation software, hardware, and ancillary equipment purchased after November 5, 2008, and before January 1, 2011.

Existing law requires that all moneys received by the Board of Pilot Commissioners pursuant to the provisions of any law shall be paid into the State Treasury to the credit of the Board of Pilot Commissioners' Special Fund and are continuously appropriated to the board for the payment of the compensation and expenses of the board and its officers and employees.

By increasing the amount of revenue deposited into a continuously appropriated fund and by authorizing the expenditure of money in that fund for a new purpose, the bill would make an appropriation.

(5) The bill would also make technical changes.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 1130 of the Harbors and Navigation Code is amended to read:

1130. (a) A majority of all of the pilots licensed by the board shall appoint one pilot to act as port agent to carry out the orders

of the board and other applicable laws, and to otherwise administer the affairs of the pilots. The appointment is subject to the confirmation of the board.

(b) The port agent shall be responsible for the general supervision and management of all matters related to the business and official duties of pilots licensed by the board.

(c) The port agent shall immediately notify the executive director of the board of a suspected violation, navigational incident, misconduct, or other rules violation that is reported to him or her or to which he or she is a witness. The board shall adopt regulations for the manner and content of a notice provided pursuant to this section.

SEC. 2. Section 1137 of the Harbors and Navigation Code is amended to read:

1137. (a) The account required pursuant to Section 1136 shall show all of the following:

- (1) The name of each vessel piloted.
- (2) The name of each vessel for which pilotage has been charged or collected.
- (3) The amount charged to or collected for each vessel.
- (4) Any rebates made and allowed and for what amounts.
- (5) The depth of each vessel's draft and its highest gross tonnage.
- (6) Whether the vessel was inward or outward bound.

(b) The board shall record the accounts in full detail in a book prepared for that purpose. The account book is a public record.

SEC. 3. Section 1156 of the Harbors and Navigation Code is amended to read:

1156. (a) The board may appoint, fix the compensation of, and from time to time adjust the compensation of, an executive director who is exempt from the civil service laws, and other employees as may be necessary. The executive director may perform all duties, exercise all powers, discharge all responsibilities, and administer and enforce all laws, rules, and regulations under the jurisdiction of the board, with the approval of the board, including, but not limited to, all of the following:

(1) The administration of personnel employed by the board in accordance with the civil service laws.

(2) To serve as treasurer of the board and keep, maintain, and provide the board with all statements of accounts, records of

receipts, and disbursements of the board in accordance with the law.

(3) The issuance and countersigning of licenses that shall also be signed by the president of the board.

(4) The administration of matters and the maintenance of files pertaining to action taken against licenses issued by the board.

(5) The administration of investigations of, and reporting on, a navigational incident or other matter for which a license issued by the board may be revoked or suspended.

(6) To work with board members, staff, and other interested stakeholders to recommend improvements in the pilot training program.

(7) Under the direction of the board, to coordinate with other state and federal agencies charged with protecting the environment and with the oil and hazardous chemical shipping industry.

(8) Any other function, task, or duty as may reasonably be assigned by the president of the board, including, but not limited to, performing research and obtaining documents and other evidence for board activities, including rate hearings.

(b) The Governor shall appoint one assistant director to serve at the pleasure of the Governor. The assistant director shall have the duties as assigned by the executive director, and shall be responsible to the executive director for the performance of his or her duties.

(c) The board may employ personnel necessary to carry out the purposes of this chapter. All personnel shall be appointed pursuant to the State Civil Service Act (Part 1 (commencing with Section 18000) of Division 5 of Title 2 of the Government Code), except for the executive director and the assistant director, who shall be exempt from state civil service. The board may fix the compensation of, and from time to time adjust the compensation of, any employees as may be necessary.

(d) All personnel of the board shall be appointed, directed, and controlled by the board, the executive director, or the board's authorized deputies or agents to whom it may delegate its powers.

(e) The board may contract and employ commission investigators. The board shall adopt regulations for the minimum standards for a commission investigator that shall include, but are not limited to, a basic knowledge of investigative techniques and maritime issues.

SEC. 4. Section 1156.6 of the Harbors and Navigation Code is amended to read:

1156.6. (a) Whenever suspected safety standard violations concerning pilot hoists, pilot ladders, or the proper rigging of pilot hoists or pilot ladders are reported to the board, the executive director shall assign a commission investigator to personally inspect the equipment for its compliance with the relevant safety standards promulgated by the United States Coast Guard and the International Maritime Organization. The commission investigator shall report preliminary conclusions, including an assessment of the equipment's compliance with the relevant safety standards, to the executive director as soon as possible. If, in the preliminary report, the equipment is found to be in violation, or in likely violation in the opinion of the commission investigator, of the relevant safety standards, the executive director shall immediately alert the cognizant United States Coast Guard office. The commission investigator shall submit a written report to the incident review committee as established by subdivision (a) of Section 1180.3 that shall remain confidential until reported to the board. The incident review committee, in turn, shall report its findings and recommendations, if any, to the board. The board shall receive the incident review committee's findings, which may include other reports, information, or statements from interested parties. The board shall specify, by regulation, the information that shall be contained in the report.

(b) This section applies to the pilotage grounds, as defined in Section 1114.5. Whenever a vessel passes outside of the pilotage grounds, the commission investigator's report shall include that fact along with a description of the incident.

(c) The record of the investigation and the board's findings and recommendations, if any, shall be a public record maintained by the board.

SEC. 5. Section 1157.1 of the Harbors and Navigation Code is amended to read:

1157.1. (a) Except as provided in Section 1157.4, all records of the board relating to the personal information of a pilot, an inland pilot, a pilot trainee, or an applicant to the pilot trainee training program are confidential and shall not be open to public inspection.

(b) For purposes of this section, “personal information” means information, other than the name and mailing address, that identifies an individual, including an individual’s photograph, social security number, address, telephone number, and medical or disability information, but does not include other information related to licensing such as incidents, rules or safety violations, misconduct, training records, commendations, and license status.

SEC. 6. Section 1171.5 of the Harbors and Navigation Code is amended to read:

1171.5. (a) The board shall adopt, by regulation, licensing standards that equal or exceed standards for obtaining federal endorsements and that conform with and support the state policy specified in Sections 1100 and 1101.

(b) The board shall adopt reasonable rules and regulations that require pilots to be qualified to perform all pilot duties.

(c) The board shall adopt, by regulation, training standards and a training program for pilot trainees, and continuing education standards and a continuing education program for pilots and inland pilots. In the case of pilot trainees, the training program shall be for a minimum of one year and a maximum of three years. In the case of pilots and inland pilots, the board shall specify the type, nature, duration, and frequency of the continuing education required and the identity of the pilots or inland pilots who are required to undergo continuing education in the next 12-month period. Pursuant to Section 1182, the license of a pilot or an inland pilot may be revoked or suspended if he or she fails to complete the continuing education required by this subdivision during the period specified. The board shall also require that an evaluation of the pilot’s or inland pilot’s performance be prepared by the institution selected by the board to provide pilot continuing education, and the institution shall provide copies of the evaluation to the pilot or inland pilot and to the board.

(d) The board shall adopt, by regulation, the qualifications, standards, and rating criteria for admission of pilot trainees to the training program. Notwithstanding subdivision (f), the board shall administer and conduct the pilot trainee admission selection in accordance with the regulations for admission.

(e) The board shall establish a pilot evaluation committee consisting of five active pilots who each have at least 10 years’ experience as a pilot on the Bays of San Francisco, San Pablo, and

Suisun. The board shall select the members of the pilot evaluation committee. A member may not serve for more than two four-year terms, except that two of the initial members appointed to the pilot evaluation committee shall serve terms of two years.

(f) The pilot evaluation committee shall conduct and supervise the pilot trainee training program pursuant to the direction and regulation of the board and consistent with the intent of this division.

(g) The board shall issue a certificate of completion to each pilot trainee who satisfactorily completes the training program. The board shall not issue a pilot's license to any person who does not receive a certificate of completion of the training program from the board, although the board may refuse to issue a pilot license to a pilot trainee who has received this certificate.

(h) The training program for pilot trainees and the continuing education program for pilots and inland pilots shall be funded from revenues collected for these purposes as determined by the board pursuant to Sections 1195 and 1196 and deposited into the Board of Pilot Commissioners' Special Fund pursuant to Section 1159.

SEC. 7. Section 1176 of the Harbors and Navigation Code is amended to read:

1176. (a) The board shall appoint a physician or physicians who are qualified to determine the suitability of a person to perform his or her duties as a pilot, an inland pilot, or a pilot trainee in accordance with subdivision (c).

(b) An applicant for a pilot trainee position or for a pilot license, an existing pilot trainee, a pilot, or or an inland pilot seeking renewal of his or her license shall undergo a physical examination by a board appointed physician in accordance with standards prescribed by the board. Within 30 days prior to the examination, the applicant or licensee shall submit to the physician conducting the physical examination a complete list of all prescribed medications being taken by or administered to the applicant or licensee.

(c) On the basis of both the examination and an evaluation of the effects of the prescription medications named on the submitted list, the physician shall designate to the board whether or not the pilot, inland pilot, or pilot trainee is fit to perform his or her duties as a pilot, an inland pilot, or a pilot trainee.

(d) The license of a pilot or an inland pilot shall not be renewed unless he or she is found fit for duty pursuant to subdivision (c).

(e) Whenever a pilot, an inland pilot, or a pilot trainee is prescribed either a new dosage of a medication or a new medication, or suspends the use of a prescribed medication, he or she shall, within 10 days, submit that information to the board appointed physician having possession of the prescribed medication list submitted pursuant to subdivision (b). Whenever the physician receives the updated information, the physician shall determine whether or not the medication change affects the licensee's or trainee's fitness for duty. If the physician determines that the medication change results in the pilot, inland pilot, or pilot trainee being unfit for duty, the physician shall inform the board.

(f) The board may terminate a pilot trainee or suspend or revoke the license of a pilot or an inland pilot who fails to submit the prescribed medication information required by this section.

SEC. 8. Section 1190 of the Harbors and Navigation Code is amended to read:

1190. (a) Every vessel spoken inward or outward bound shall pay the following rate of bar pilotage through the Golden Gate and into or out of the Bays of San Francisco, San Pablo, and Suisun:

(1) Eight dollars and eleven cents (\$8.11) per draft foot of the vessel's deepest draft and fractions of a foot pro rata, and an additional charge of 73.01 mills per high gross registered ton as changed pursuant to law in effect on December 31, 1999. The mill rates established by this paragraph may be changed as follows:

(A) (i) On and after January 1, 2010, if the number of pilots licensed by the board is 58 or 59 pilots, the mill rate in effect on December 31, 2006, shall be decreased by an incremental amount that is proportionate to one-half of the last audited annual average net income per pilot for each pilot licensed by the board below 60 pilots.

(ii) On and after January 1, 2010, if the number of pilots licensed by the board is fewer than 58 pilots, the mill rate in effect on December 31, 2006, shall be adjusted in accordance with the method described in clause (i) as though there are 58 pilots licensed by the board.

(iii) The incremental mill rate adjustment authorized by this subparagraph shall be calculated using the data reported to the

board for the number of gross registered tons handled by pilots licensed under this division during the same 12-month period as the audited annual average net income per pilot. The incremental mill rate adjustment shall become effective at the beginning of the immediately following quarter, commencing January 1, April 1, July 1, or October 1, as directed by the board.

(iv) On and after January 1, 2010, if, during any quarter described in this paragraph, the number of pilots licensed by the board is equal to or greater than 60, clauses (i) to (iii), inclusive, shall become inoperative on the first day of the immediately following quarter.

(B) There shall be an incremental rate of additional mills per high gross registered ton as is necessary and authorized by the board to recover the pilots' costs of obtaining new pilot boats and of funding design and engineering modifications for the purposes of extending the service life of existing pilot boats, excluding costs for repair or maintenance. The incremental mill rate charge authorized by this subparagraph shall be identified as a pilot boat surcharge on the pilots' invoices and separately accounted for in the accounting required by Section 1136. Net proceeds from the sale of existing pilot boats shall be used to reduce the debt on the new pilot boats and any debt associated with the modification of pilot boats under this subparagraph. The board may adjust a pilot boat surcharge to reflect any associated operational savings resulting from the modification of pilot boats under this subparagraph, including, but not limited to, reduced repair and maintenance expenses.

(C) In addition to the incremental rate specified in subparagraph (B), the mill rate established by this subdivision may be adjusted at the direction of the board if, after a hearing conducted pursuant to Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, the board determines that there has been a catastrophic cost increase to the pilots that would result in at least a 2-percent increase in the overall annual cost of providing pilot services.

(2) A minimum charge for bar pilotage shall be six hundred sixty-two dollars (\$662) for each vessel piloted.

(3) The vessel's deepest draft shall be the maximum draft attained, on a stillwater basis, at any part of the vessel during the course of such transit inward or outward.

(b) The rate specified in subdivision (a) shall apply only to a pilotage that passes through the Golden Gate to or from the high seas to or from a berth within an area bounded by the Union Pacific Railroad Bridge to the north and Hunter's Point to the south. The rate for pilotage to or from the high seas to or from a point past the Union Pacific Railroad Bridge or Hunter's Point shall include a movement fee in addition to the basic bar pilotage rate as specified by the board pursuant to Section 1191.

(c) The rate established in paragraph (1) of subdivision (a) shall be for a trip from the high seas to dock or from the dock to high seas. The rate specified in Section 1191 shall not be charged by pilots for docking and undocking vessels. This subdivision does not apply to the rates charged by inland pilots for their services.

(d) The board shall determine the number of pilots to be licensed based on the 1986 manpower study adopted by the board.

(e) Consistent with the board's May 2002 adoption of rate recommendations, the rates imposed pursuant to paragraph (1) of subdivision (a) that are in effect on December 31, 2002, shall be increased by 4 percent on January 1, 2003; those in effect on December 31, 2003, shall be increased by 4 percent on January 1, 2004; those in effect on December 31, 2004, shall be increased by 3 percent on January 1, 2005; and those in effect on December 31, 2005, shall be increased by 3 percent on January 1, 2006.

(f) (1) There shall be a movement fee as is necessary and authorized by the board to recover a pilot's costs for the purchase, lease, or maintenance of navigation software, hardware, and ancillary equipment purchased after November 5, 2008, and before January 1, 2011.

(2) The software, equipment, and technology covered by this subdivision shall be used strictly and exclusively to aid in piloting on the pilotage grounds. The movement fee authorized by this subdivision shall be identified as a navigation technology surcharge on a pilot's invoices and separately accounted for in the accounting required by Section 1136. The board shall review and adjust as necessary the navigation technology surcharge at least quarterly. This subdivision shall become inoperative on January 1, 2011.

SEC. 9. Section 1196 of the Harbors and Navigation Code is amended to read:

1196. (a) In addition to other fees for pilotage, there shall be a surcharge in an amount established by the board for each

movement of a vessel using pilot services for the pilot and inland pilot continuing education program established by the board.

(b) The moneys charged and collected each month from the pilot and inland pilot continuing education program surcharge shall be paid to the board. The moneys shall be used only to fund the pilot and inland pilot continuing education program in the manner established by the board.

(c) By action of the board, the board may adjust the amount established pursuant to subdivision (a) as necessary to efficiently administer the pilot and inland pilot continuing education program.

Approved _____, 2009

Governor